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(SENDER'S NAME) (EXTENSION)

RE: APPLICATION NO. 10/602,953

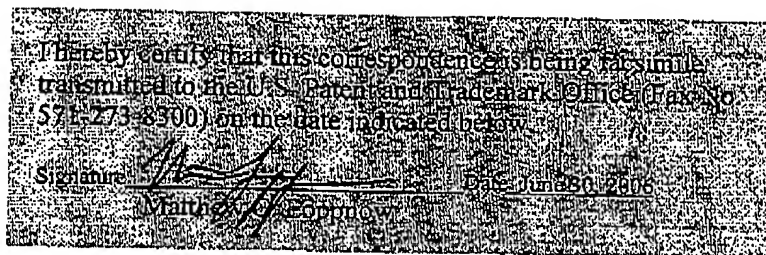
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

5 APPLICANT: Mirza, et al. EXAMINER: Nguyen
SERIAL NO.: 10/602,953 GROUP: 2617
10 FILED: June 24, 2003 CASE NO.: CS21214RL
ENTITLED: DUAL INPUT MOBILE COMMUNICATION DEVICE

15 Motorola, Inc.
Intellectual Property Department
600 North U.S. Highway 45
Libertyville, IL 60048

20 APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
25 Alexandria, VA 22313-1450

Sir:

30 Further to the Notice of Appeal filed on June 29, 2006, Applicant submits the present Appeal Brief.

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I. REAL PARTY IN INTEREST

The real party in interest is, Motorola, Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF CLAIMS

Claims 1-22 are pending. Claims 1-9, 11-17, and 19-22 are rejected and are the subject of the present appeal.

IV. STATUS OF AMENDMENTS

No amendments were filed subsequent to final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The inventions are drawn generally to a dual input user interface for a mobile communication device (page 1, lines 6 and 7). The mobile communication device (100) can include a housing (110) having an exterior, the exterior including a first face side (120) and a second face side (220), the second face side located on an opposite side of the housing from the first face side, a first display (130) disposed on the first face side, a numeric keypad (145) disposed on the first face side, a second display (230) disposed on the second face side, and a text keypad (240) disposed on the second face side (page 2, lines 11-17 and page 4, line 27 - page 5, line 31).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-5, 9, 12-14, 17, 19, 21, and 22 are allowable under 35 U.S.C. § 103 over Constein (U.S. Patent No. 6,259,932) and Rydbeck (U.S. Patent No. 6,751,487).

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VII. ARGUMENT

Claim Limitations At Issue

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In Claim 1, the limitations at issue are italicized below:

1. A mobile communication device, comprising:
- a housing having an exterior, the exterior including a first face side and a
- 10 second face side, *the second face side located on an opposite side of the housing from the first face side;*
- a first display disposed on the first face side;
- a numeric keypad disposed on the first face side;
- a second display disposed on the second face side; and
- 15 a text keypad disposed on the second face side.

In Claim 12, the limitations at issue are italicized below:

12. A portable phone, comprising:
- 20 a unitary housing including a first face side and a second face side, *the second face side facing an opposite direction from the first face side;*
- a transceiver contained within the housing;
- a controller contained within the housing, the controller coupled to the
- transceiver;
- 25 a user interface including a numeric keypad disposed on the first face side, the user interface also including at least one mobile communication device input device, the user interface coupled to the controller; and
- a text input device disposed on the second face side, the text input device
- coupled to the controller.
- 30

In Claim 21, the limitations at issue are italicized below:

21. A mobile communication device comprising:

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a candy-bar style housing having a first face side and a second face side, the second face side on an opposite side of the housing from the first face side; means for inputting numbers coupled to the first face side; means for displaying information coupled to the first face side; and means for inputting text coupled to the second face side.

Applicants' Argument

Applicants assert Constein and Rydbeck do not disclose or suggest a housing having an exterior, the exterior including a first face side and a second face side, the second face side located on an opposite side of the housing from the first face side, a numeric keypad disposed on the first face side, and a text keypad disposed on the second face side, as recited in independent claim 1 and similarly recited in independent claims 12 and 21.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references, when combined, must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (MPEP 2142). The prior art must suggest the desirability of the claimed invention (MPEP 2143.01).

Constein discloses a hand-held telephone with a computer module. The Office Action admits Constein does not teach a second keypad disposed on a second face side. Rydbeck discloses a cellular telephone that has a keypad that can be integral to a display (col. 5, lines 49-51). The Office Action alleges it would have been obvious to apply the teaching of Rydbeck to the teaching of Constein in order to configure pervasive computing devices such as smaller, miniaturized, or "pocket-sized" wireless telephones in a manner which allows for larger displays.

Applicants admit Rydbeck discloses a keypad that can be integral to a display. Unfortunately, the combination of Constein and Rydbeck does not result in both a second display and a text keypad disposed on a second face side. In particular, Constein does not disclose a text keypad disposed on a second face side, such as the side along with the display. Also, Rydbeck only discloses a keypad can be integral to a display. However, this does not

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amount to both a second display and a text keypad disposed on a second face side. In particular, this amounts to just a display. It does not disclose both the display and the keypad. Claim 1 expressly claims both a keypad and a separate display disposed on the second face side and such does not result from the combination.

5 Furthermore, the combination does not result in an actual text keypad disposed on a second face side. In particular, Rydbeck does not disclose an actual keypad. Rydbeck only discloses displaying a keypad. This is not the disclosure of an actual keypad disposed on a second face side because it is the disclosure of displaying a type of virtual keypad on a display. While the display may be a touch screen and the touch screen may be activated, this only
10 results in using an image of a keypad on a touch screen, not the use of an actual keypad. Thus, the combination of Constein and Rydbeck does not result in an actual text keypad disposed on a second face side.

In the Response to Arguments section, the final Office Action alleges the touch screen keypad is an actual keypad because it has been known in the art that a touchscreen
15 keypad/keyboard is functionally the same as a conventional keypad/keyboard. Applicants disagree. In particular, the Office Action, by making such an allegation, admits that Rydbeck does not actually disclose the claimed keypad. More particularly, the Office Action is alleging Rydbeck only discloses an element that performs the same function as a keypad, and therefore Rydbeck does not disclose an actual keypad. Furthermore, both a keypad and a display are
20 claimed as separate elements and such is not disclosed by Rydbeck. Thus, the touch screen disclosed in Rydbeck does not satisfy the claimed keypad and display.

Additionally, Applicants assert the Office Action has not provided proper motivation to combine the references. In fact, the combination makes Constein inoperable for its intended use. In particular, Constein discloses a computer keyboard 14 separate from a
25 display 13 (Fig. 2) so the device can be used as a usual personal computer (col. 6, lines 30-31 and 53-56). Thus, text can be viewed on the display 13 while it is typed on the keyboard 14. Combining the keypad 25 of Rydbeck with the computer module of Constein would prevent the device from being used as a usual personal computer because a user could not see the display while typing on a keypad that is on the display. Even if the display were a giant
30 display to include both a keypad and additional display (which is not taught), the device would not longer operate as a usual personal computer and would also defeat the motivation alleged by the Office Action because it would no longer be "smaller, miniaturized, or 'pocket-sized.'" Also, the device would also defeat the motivation alleged by the Office Action because the

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5 resulting device would have an effectively smaller display because the display would be used for the keyboard, as opposed to keeping the keyboard separate and using the display for display purposes. Furthermore, the device would no longer provide a good viewing angle of a display on a "usual" personal computer because the display could no longer be tilted relative to the keypad. Thus, the alleged motivation is improper because the combination makes Constein inoperable for its intended use.

10 Thus, Constein and Rydbeck do not disclose or suggest a housing having an exterior, the exterior including a first face side and a second face side, the second face side located on an opposite side of the housing from the first face side, a numeric keypad disposed on the first face side, and a text keypad disposed on the second face side, as recited in independent claim 1.

15 Applicants also assert that Constein and Rydbeck do not disclose or suggest a unitary housing including a first face side and a second face side, the second face side facing an opposite direction from the first face side, a user interface including a numeric keypad disposed on the first face side, and a text input device disposed on the second face side, as recited in independent claim 12.

20 In particular, the Office Action has not provided proper motivation to combine the references because the combination makes Constein inoperable for its intended use. In particular, Constein discloses a computer keyboard 14 separate from a display 13 (Fig. 2) so the device can be used as a usual personal computer (col. 6, lines 30-31 and 53-56) and text can be viewed on the display 13 while it is typed on the keyboard 14. Combining the keypad 25 of Rydbeck with the computer module of Constein would prevent the device from being used as a usual personal computer because a user could not see the display while typing on a keypad that is on the display. Even if the display were a giant display to include both a keypad and additional display (which is not taught), not only would the device would not longer operate as a usual personal computer, but the resulting device would also defeat the motivation alleged by the Office Action because it would no longer be "smaller, miniaturized, or 'pocket-sized.'" Also, the device would also defeat the motivation alleged by the Office Action because the resulting device would have an effectively smaller display because the display would be used for the keyboard, as opposed to keeping the keyboard separate and using the display for display purposes. Furthermore, the device would no longer provide a good viewing angle of a display on a "usual" personal computer because the display could no

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longer be tilted relative to the keypad. Thus, the alleged motivation is improper because the combination makes Constein inoperable for its intended use.

Thus, Constein and Rydbeck do not disclose or suggest a unitary housing including a first face side and a second face side, the second face side facing an opposite direction from the first face side, a user interface including a numeric keypad disposed on the first face side, and a text input device disposed on the second face side, as recited in independent claim 12.

Applicants additionally assert that Constein and Rydbeck do not disclose or suggest a candy-bar style housing having a first face side and a second face side, the second face side on an opposite side of the housing from the first face side, means for inputting numbers coupled to the first face side, and means for inputting text coupled to the second face side, as recited in independent claim 21.

Both Constein and Rydbeck clearly disclose flip-type devices. In particular, Rydbeck discloses a flip member 30 in all of the disclosed embodiments (Figs. 1 and 2 and col. 3, line 30). Additionally, Constein discloses two members 1 and 2 that are movably connected by means of a hinge (Figs. 1 and 2 and col. 6, lines 18-19), resulting in a flip-type device. Anyone of ordinary skill in the art clearly knows the term "candy bar" is used to differentiate a device from a flip-type device. Regardless of this fact, there is absolutely no evidence of record that either the device in Constein or the device Rydbeck are candy-bar style housings. Thus, Constein and Rydbeck do not disclose or suggest a candy-bar style housing because they both disclose flip-type devices.

The Office Action goes on to allege a candy bar style housing is disclosed in Fig. 1 of Constein or Fig. 1 of Rydbeck. Applicants disagree. Fig. 1 of Constein does not disclose a candy bar style phone. In particular, Fig. 1 of Constein only discloses a flip device in a closed position. In fact, Constein expressly discloses member 1 and member 2 are movably connected by a hinge (col. 6, lines 17-18). Furthermore, Fig. 2 and col. 6, lines 28-29 expressly disclose the device of Fig. 1 in an open position, which is a flip style housing. Thus, Constein does not disclose a candy bar style phone.

Similarly, Fig. 1 of Rydbeck does not disclose a candy bar style phone. In particular, Fig. 1 of Rydbeck expressly discloses a flip housing with flip member 30 (col. 4, line 38). Thus, Rydbeck does not disclose a candy bar style phone.

Thus, Constein and Rydbeck do not disclose or suggest a candy-bar style housing having a first face side and a second face side, the second face side on an opposite side of the housing from the first face side, means for inputting numbers coupled to the first face side,

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and means for inputting text coupled to the second face side, as recited in independent claim 21.

Additionally, the Office Action has not provided proper motivation to combine the references because the combination makes Constein inoperable for its intended use. In particular, Constein discloses a computer keyboard 14 separate from a display 13 (Fig. 2) so the device can be used as a usual personal computer (col. 6, lines 30-31 and 53-56) and text can be viewed on the display 13 while it is typed on the keyboard 14. Combining the keypad 25 of Rydbeck with the computer module of Constein would prevent the device from being used as a usual personal computer because a user could not see the display while typing on a keypad that is on the display. Even if the display were a giant display to include both a keypad and additional display (which is not taught), not only would the device would not longer operate as a usual personal computer, but the resulting device would also defeat the motivation alleged by the Office Action because it would no longer be "smaller, miniaturized, or 'pocket-sized.'" Also, the device would also defeat the motivation alleged by the Office Action because the resulting device would have an effectively smaller display because the display would be used for the keyboard, as opposed to keeping the keyboard separate and using the display for display purposes. Furthermore, the device would no longer provide a good viewing angle of a display on a "usual" personal computer because the display could no longer be tilted relative to the keypad. Thus, the alleged motivation is improper because the combination makes Constein inoperable for its intended use.

Thus, Constein and Rydbeck do not disclose or suggest a candy-bar style housing having a first face side and a second face side, the second face side on an opposite side of the housing from the first face side, means for inputting numbers coupled to the first face side, and means for inputting text coupled to the second face side, as recited in independent claim 21.

The final Office Action alleges motivation to combine Constein and Rydbeck is to have a larger display. Applicants disagree for numerous reasons. First, Applicants assert that such an allegation of motivation is not disclosed in the references. Second, Applicants assert the allegation contradicts itself because integrating the keypad into the display actually reduces the effective area of the display when the keypad is displayed and thus, the allegation actually teaches away from the combination. Third, the allegation is only a generalization with respect to Rydbeck and does not provide motivation to combine the specific teachings of

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Rydbeck with Constein. Thus, the Office Action has not provided proper motivation to combine the references.

Applicants recognize that one reading the claimed invention may begin to recognize numerous benefits that suddenly become apparent only after reading the claimed invention. The more the exact words of the claims are read, the more one can realize the benefits only became apparent after reading Applicants' teachings. Upon reaching this realization, it is easy to notice that there is absolutely no evidence of motivation in the prior art and such evidence has not been provided by any of the Office Actions. Yet, such motivation is required for a proper rejection under 35 USC § 103. Once one notices there is no evidence of motivation in the prior art, one can understand that the Office Actions have applied impermissible hindsight in attempting to combine the references.

Therefore, kindly reverse and vacate the rejection of claims 1, 12, and 21 under 35 U.S.C. § 103. The remaining claims depend from the independent claims and therefore also define patentable subject matter. Accordingly, Applicants respectfully request the allowance of claims 1-22.

CONCLUSION

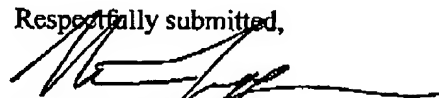
In view of the discussion above, the claims of the present application are in condition for allowance. Kindly withdraw any rejections and objections and allow this application to issue as a United States Patent without further delay.

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The Commissioner is hereby authorized to deduct the fees for filing a brief in support of an appeal and any fees arising as a result of this Appeal Brief or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

5

Respectfully submitted,


Matthew C. Loppnow
Attorney for Applicant
Registration No. 45,314

10

Dated: June 30, 2006

Phone No. (847) 523-2585

15

Fax No. (847) 523-2350
Please send correspondence to:
Motorola, Inc.
Intellectual Property
600 North U.S. Highway 45
Libertyville, IL 60048

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VIII. CLAIMS APPENDIX

Claims involved in the appeal:

- 5 1. A mobile communication device, comprising:
- a housing having an exterior, the exterior including a first face side and a
second face side, the second face side located on an opposite side of the housing from the first
face side;
- a first display disposed on the first face side;
- 10 a numeric keypad disposed on the first face side;
- a second display disposed on the second face side; and
- a text keypad disposed on the second face side.
2. The mobile communication device according to claim 1, wherein the numeric
15 keypad comprises a telephone keypad and text keypad comprises a QWERTY keypad.
3. The mobile communication device according to claim 1, wherein the housing
comprises a candy bar phone style housing.
- 20 4. The mobile communication device according to claim 1, wherein the second
display comprises a display configured to display at least one line of text.
5. The mobile communication device according to claim 1, further comprising:
- a speaker disposed on the first face side, the speaker located on a first side of
25 the first display; and

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a microphone disposed on the first face side, the microphone located on a second side of the first display.

6. The mobile communication device according to claim 1, further comprising:

5 a user interface including the numeric keypad, the user interface also including at least one mobile communication device input device; and

a controller coupled to the user interface, the first display, the second display, and the text keypad, the controller configured to receive signals from the user interface and activate and deactivate the text keypad based on the signals received from the user interface.

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7. The mobile communication device according to claim 1, wherein the text keypad is operated in a position orthogonal to a position of numeric keypad operation.

8. The mobile communication device according to claim 1, further comprising a

15 third display disposed on the second face side, wherein the third display is configured to display at least one line of text.

9. The mobile communication device according to claim 1, wherein the second

display substantially surrounds the text keypad disposed on the second face side.

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10. The mobile communication device according to claim 9, wherein the second

display is configured to display scrolling text by scrolling the text around the text keypad disposed on the second face side.

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11. The mobile communication device according to claim 1, further comprising:

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a third side orthogonal to the first face side and the second face side, the third side coupled to the first face side and the second face side; and

an input lock button coupled to the third side, the input lock button configured to selectively lock and unlock input functionality of the numeric keypad and the text keypad.

5

12. A portable phone, comprising:

a unitary housing including a first face side and a second face side, the second face side facing an opposite direction from the first face side;

a transceiver contained within the housing;

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a controller contained within the housing, the controller coupled to the transceiver;

a user interface including a numeric keypad disposed on the first face side, the user interface also including at least one mobile communication device input device, the user interface coupled to the controller; and

15

a text input device disposed on the second face side, the text input device coupled to the controller.

13. The portable phone according to claim 12, further comprising:

a first display disposed on the first face side, the first display coupled to the controller; and

20

a second display disposed on the second face side, the second display coupled to the controller.

14. The portable phone according to claim 12, wherein the numeric keypad

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comprises a telephone keypad and the text input device comprises a QWERTY keypad.

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15. The portable phone according to claim 12, wherein the controller is configured to receive signals from the user interface and activate and deactivate the text input device based on the signals received from the user interface.

16. The portable phone according to claim 12, further comprising a third display disposed on the second face side, wherein the third display is configured to display at least one line of text.

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17. The portable phone according to claim 12, wherein the second display substantially surrounds the text input device disposed on the second face side.

15

18. The portable phone according to claim 17, wherein the second display is configured to display scrolling text by scrolling the text around the text input device disposed on the second face side.

19. The portable phone according to claim 12, wherein the text input device comprises a touch screen.

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20. The portable phone according to claim 12, further comprising:
a third side orthogonal to the first face side and the second face side, the third side coupled to the first face side and the second face side; and
an input lock button coupled to the third side, the input lock button configured to selectively lock and unlock input functionality of the numeric keypad and the text input device.

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21. A mobile communication device comprising:
- a candy-bar style housing having a first face side and a second face side, the second face side on an opposite side of the housing from the first face side;
- 5 means for inputting numbers coupled to the first face side;
- means for displaying information coupled to the first face side; and
- means for inputting text coupled to the second face side.
22. The mobile communication device according to claim 21, further comprising:
- 10 means for displaying text coupled to the second face side; and
- means for controlling the operation of the mobile communication device coupled to the means for inputting numbers, the means for displaying information, the means for inputting text, and the means for displaying text.

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